

REMARKS

This Amendment is submitted in response to the non-final Office Action mailed on October 8, 2008. No fees are due herewith. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-511 on the account statement.

Claims 38-53, 55 and 58-71 are pending in this application. Claims 1-37 and 54-57 were previously canceled. Claims 38-47 and 61-71 were previously withdrawn. In the Office Action, Claim 55 is objected to. Claims 48-53, 55 and 58-60 are rejected under 35 U.S.C. §112. Claims 48-53, 55 and 58-60 are rejected under 35 U.S.C. §103(a). In response, Claims 48-50 have been amended. The amendments do not add new matter. In view of the amendment and/or for at least the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claim 55 is objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of Claim 49, which depends from Claim 48. See, Office Action, pages 2-3. Since Applicants have deleted the subject matter of Claim 55 from independent Claim 48, Applicants submit that the objection to Claim 55 is now rendered moot. For at least the above-mentioned reasons, Applicants respectfully submit that the present claims fully comply with the requirements under 37 CFR 1.75(c).

Accordingly, Applicants respectfully request that the objection to Claim 55 under 37 CFR 1.75(c) be reconsidered and withdrawn.

In the Office Action, Claims 48-53, 55 and 58-60 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Patent Office asserts that the specification does not teach a percent of dry matter weight range for the "a fat transportation aid, agent, or carrier" amendment submitted on June 18, 2008. See, Office Action, page 3, lines 12-24. In response, Applicants note that independent Claim 48 has been amended to delete the previously submitted "a fat transportation aid, agent, or carrier" amendment and the claimed percentages. For at least the above-mentioned reasons, Applicants respectfully submit that the present claims fully comply with the requirements under 35 U.S.C. §112, first paragraph.

Accordingly, Applicants respectfully request that the rejections of Claims 48-53, 55 and 58-60 under 35 U.S.C. §112, first paragraph be reconsidered and withdrawn.

In the Office Action, Claims 48-53, 55 and 58-60 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,471,999 B2 to Couzy et al. ("*Couzy*") in view of JP 408038063A to Reinhart ("*Reinhart*") or US 2001/0051206 A1 to Hayek et al. ("*Hayek*") and further in view of U.S. Patent No. 6,228,418 to Gluck et al. ("*Gluck*"). In view of the amendments and/or for at least the reasons set forth below, Applicants respectfully submit that the cited references are deficient with respect to the present claims.

Currently amended independent Claim 48 recites, in part, a nutrition management regimen comprising a dietary component comprising a pancreatic function promoter and an intestinal mucosa function-promoter in an amount effective to maintain, promote or enhance the capacity of the pet to digest lipid, wherein the intestinal mucosa function-promoter comprises an omega-3 fatty acid derived from fish oils, and wherein the pancreatic function promoter is a pancreatic extract. The amendment does not add new matter. The amendment is supported in the specification at, for example, page 11, lines 8-15. Several studies have shown that older pets, especially cats, have a decreased capacity to digest lipids. See, Specification, page 1, paragraph 4, lines 1-5. Because valuable nutrients such as vitamins A, D, E and K are absorbed only with long-chain fatty acids, a decrease in the ability to digest lipids can lead to vitamin deficiencies and adverse health effects on a pet. See, Specification, page 1, paragraph 8, lines 1-4 and 10-12. Therefore, the present claims provide a dietary composition for a pet that contains a pancreatic function promoter and an intestinal mucosa function-promoter in an amount effective to increase the capacity of the pet to digest lipids. See, Specification, page 2, paragraph 18, lines 1-8. In contrast, Applicants respectfully submit that the cited references fail to disclose or suggest every element of the present claims.

For example, *Couzy*, *Reinhart*, *Hayek* and *Gluck* all fail to disclose or suggest a nutrition management regimen comprising a dietary component comprising a pancreatic function promoter and an intestinal mucosa function-promoter in an amount effective to maintain, promote or enhance the capacity of the pet to digest lipid, wherein the intestinal mucosa function-promoter comprises an omega-3 fatty acid derived from fish oils, and wherein the pancreatic function promoter is a pancreatic extract as is required, in part, by the present claims. Instead, *Couzy* is directed merely to reducing the gastrointestinal problems associated with the consumption of lactose. See, *Couzy*, col. 2, lines 1-4. The addition of lactase improves the general gastrointestinal tolerance of the pets. See, *Couzy*, col. 2, lines 1-9. In contrast, the present claims include an intestinal mucosa function-promoter in an amount effective to

specifically increase the capacity of a pet to digest lipids. See, Specification, page 2, paragraph 18, lines 5-8. *Reinhart* is entirely directed to a product containing a specific ratio of omega-6 and omega-3 fatty acids to decrease the inflammatory response of skin. See, *Reinhart*, Abstract, Purpose, lines 1-4. Similarly, *Hayek* is completely directed to a pet food composition for reducing the inflammatory response in cats. See, *Hayek*, Abstract, lines 1-2. *Gluck* is entirely directed toward a treat for pets having a certain composition and including whey protein. The treats are palatable to pets and are based on vegetarian products and contain nutraceutical ingredients. See, *Gluck*, Abstract; col. 1, lines 6-10.

At no place in the disclosures do any of *Couzy*, *Reinhart*, *Hayek* or *Gluck* disclose or suggest a nutrition management regimen comprising a dietary component comprising a pancreatic function promoter and an intestinal mucosa function-promoter in an amount effective to maintain, promote or enhance the capacity of the pet to digest lipid, wherein the intestinal mucosa function-promoter comprises an omega-3 fatty acid derived from fish oils, and wherein the pancreatic function promoter is a pancreatic extract. Therefore, the cited references fail to disclose or suggest a nutrition management regimen comprising a dietary component comprising a pancreatic function promoter and an intestinal mucosa function-promoter in an amount effective to maintain, promote or enhance the capacity of the pet to digest lipid, wherein the intestinal mucosa function-promoter comprises an omega-3 fatty acid derived from fish oils, and wherein the pancreatic function promoter is a pancreatic extract as required, in part, by the present claims.

Accordingly, Applicants respectfully request that the rejections of Claims 48-53, 55 and 58-60 as being unpatentable over *Couzy*, *Reinhart*, *Hayek* and *Gluck* be reconsidered and withdrawn.

In the Office Action, Claims 48-53, 55 and 58-60 are rejected under 35 U.S.C. §103(a) as being unpatentable over WO 02/15719 to Fuchs et al. ("*Fuchs*") in view of JP 408038063A to Reinhart ("*Reinhart*") or US 2001/0051206 A1 to Hayek et al. ("*Hayek*") and further in view of U.S. Patent No. 6,228,418 to Gluck et al. ("*Gluck*"). In view of the amendments and/or for at least the reasons set forth below, Applicants respectfully submit that the cited references are deficient with respect to the present claims.

As discussed above, currently amended independent Claim 48 recites, in part, a nutrition management regimen comprising a dietary component comprising a pancreatic function promoter and an intestinal mucosa function-promoter in an amount effective to maintain, promote

or enhance the capacity of the pet to digest lipid, wherein the intestinal mucosa function-promoter comprises an omega-3 fatty acid derived from fish oils, and wherein the pancreatic function promoter is a pancreatic extract. In contrast, Applicants respectfully submit that the cited references fail to disclose or suggest every element of the present claims.

Fuchs, *Reinhart*, *Hayek* and *Gluck* all fail to disclose or suggest a nutrition management regimen comprising a dietary component comprising a pancreatic function promoter and an intestinal mucosa function-promoter in an amount effective to maintain, promote or enhance the capacity of the pet to digest lipid, wherein the intestinal mucosa function-promoter comprises an omega-3 fatty acid derived from fish oils, and wherein the pancreatic function promoter is a pancreatic extract for substantially the same reasons set forth above. Further, *Fuchs* fails to remedy the deficiencies of the secondary references discussed above because *Fuchs* also fail to disclose or suggest a nutrition management regimen comprising a dietary component comprising a pancreatic function promoter and an intestinal mucosa function-promoter in an amount effective to maintain, promote or enhance the capacity of the pet to digest lipid, wherein the intestinal mucosa function-promoter comprises an omega-3 fatty acid derived from fish oils, and wherein the pancreatic function promoter is a pancreatic extract. Instead, *Fuchs* is entirely directed toward a composition for a nutritional supplement for convalescing patients recovering from illness or surgery, those with limited appetite such as the elderly, children or anorexic patients, or those who have impaired ability to digest other sources of protein. See, *Fuchs*, Abstract. At no place in the disclosure does *Fuchs* disclose or even suggest a nutrition management regimen for administration to a pet animal comprising a dietary component comprising a pancreatic function promoter, wherein the pancreatic function promoter is a pancreatic extract. In fact, *Fuchs* is entirely directed toward administration of a composition to humans and does not even mention that the composition may be administered to pet animals as is required, in part, by the present claims. Therefore, Applicants respectfully submit that the combination of *Fuchs*, *Reinhart*, *Hayek* and *Gluck* fails to disclose or suggest each and every element of the present claims.

Accordingly, Applicants respectfully request that the rejections of Claims 48-53, 55 and 58-60 under 35 U.S.C. §103(a) as being unpatentable in view of *Fuchs*, *Reinhart*, *Hayek* and *Gluck* be reconsidered and withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same. In the event there remains any impediment to allowance of the claims that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Respectfully submitted,

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